# TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

## No. 190.

THOMAS R. MARTIN, PLAINTIFF IN ERROR,

*vs.*

THE DISTRICT OF COLUMBIA.

IN ERROR TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED JANUARY 26, 1906.

(20,066.)

# (20,066.)

# SUPREME COURT OF THE UNITED STATES.

**OCTOBER TERM, 1906.**

# No. 190.

THOMAS R. MARTIN, PLAINTIFF IN ERROR,

*vs.*

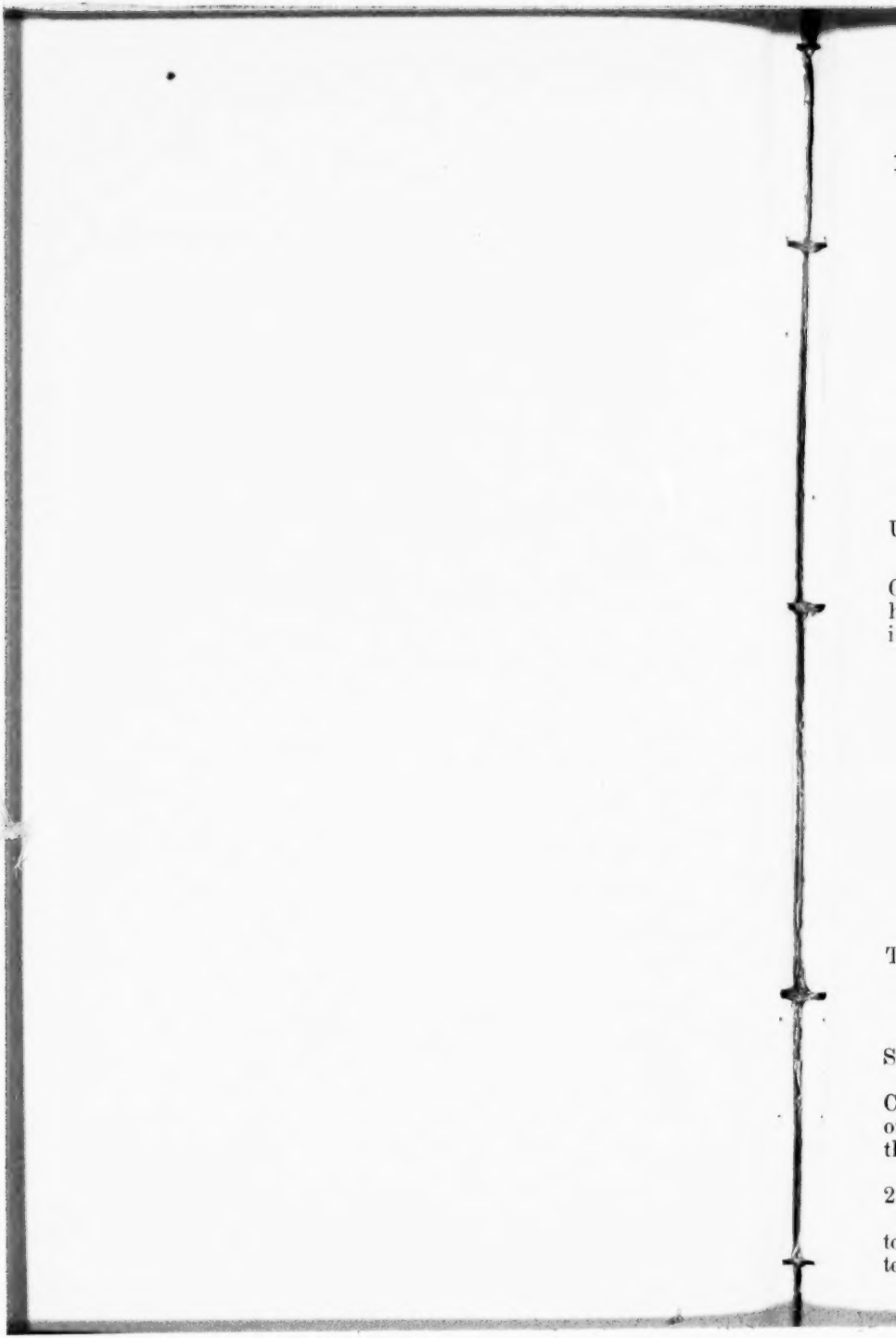
THE DISTRICT OF COLUMBIA.

IN ERROR TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

INDEX.


| | Original. | Print. |
|---|---|---|
| Caption | 1 | 1 |
| Transcript from the supreme court of the District of Columbia | 1 | 1 |
| Caption | 1 | 1 |
| Petition for a writ of certiorari | 1 | 1 |
| Motion to quash writ | 6 | 6 |
| Judgment, appeal, and penalty of bond fixed | 7 | 6 |
| Memorandum: Appeal bond filed | 7 | 7 |
| Clerk's certificate | 7 | 7 |
| Minute entry of argument | 8 | 8 |
| Opinion | 9 | 8 |
| Judgment | 11 | 10 |
| Petition for writ of error | 12 | 10 |
| Assignment of errors | 13 | 11 |
| Order allowing writ of error | 15 | 12 |
| Writ of error | 16 | 12 |
| Bond on writ of error | 17 | 13 |
| Citation and service | 18 | 14 |
| Clerk's certificate | 19 | 14 |


JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JULY 23, 1906.



1 In the Court of Appeals of the District of Columbia.

No. 1585.

THOMAS R. MARTIN, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

Supreme Court of the District of Columbia.

No. 46982. At Law.

THOMAS R. MARTIN, Plaintiff,
*vs.*
THE DISTRICT OF COLUMBIA, Defendant.

UNITED STATES OF AMERICA, *District of Columbia, ss:*

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to-wit:—

*Petition for Certiorari.*

Filed June 1, 1904.

In the Supreme Court of the District of Columbia.

No. 46982. Law.

THOMAS R. MARTIN, Petitioner,
*vs.*
THE DISTRICT OF COLUMBIA, Respondent.

To the honorable justice of the supreme court of the District of Columbia, holding a law court:

The petition of Thomas R. Martin respectfully shows:

1. That he is a citizen of the United States and a resident of the State of Maryland.

2. That heretofore, to wit, on the 4th day of March, 1896, one Clarence A. Brandenburg, being the owner in fee of the parcels of real estate in the District of Columbia known and described on the ground plats thereof as sub-lots 42 and 43, in square 69, the same abutting 20.43 and 20 feet respectively on an alley
2 running east and west in said square, and running back, the same width, to the depth of 75 feet, conveyed the same to Job Barnard and James S. Edwards, as trustees, upon the usual terms, to secure the payment to Florence E. Edwards, guardian,

of a certain promissory note of said Brandenburg and the renewals thereof for the sum of $1000, with interest, bearing date the 4th day of March, 1896, and payable to the order of said Florence E. Edwards, guardian, three years after date, which said deed of trust, was, on the day of its execution, duly recorded among the land records of the District of Columbia, in Liber 2099 at folio 328 *et seq.*

2. That at the time the proceedings for the opening of a minor street were had, as hereinafter set forth, in said square and for some time thereafter the said Florence E. Edwards was the owner and holder, in good faith, for value, of the promissory note aforesaid; that from time to time said note has been renewed and is now held by your petitioner, who acquired the same, in due course, through the said Florence E. Edwards, guardian, and for value; and the same has never been paid nor any part thereof.

3. That by an act of Congress approved July 22, 1892, the Congress of the United States undertook to authorize the Commissioners of the District of Columbia, to condemn, open, widen or straighten alleys, in the District of Columbia upon compliance with the terms and conditions of said act, and to authorize the collector of taxes of said District to levy a tax upon each lot or part of lot benefited by the opening, widening, extending, etc., of such alley.

4. That in and by an act of Congress approved August 24, 1894, said act of Congress approved July 22, 1892, was amended so as to "authorize the Commissioners of the District of Columbia, under the terms and conditions of said act, * * * to open minor streets in said District of a width of not less than forty feet, nor more than sixty feet, to run through a square from one street to another, whenever in the judgment of said Commissioners the public interest shall require it."

5. That thereafter, to wit, in the month of February, 1898, pursuant to an application in writing of the Commissioners of the District of Columbia, and purporting to be made pursuant to the authority attempted to be conveyed by the acts of Congress aforesaid, the marshal of the District of Columbia, summoned a jury of twelve persons, "to ascertain the damages which may (might) accrue to any individual or individuals" by the opening of a street in said square 69, to be known as Newport place, by the widening of the 30 foot alley running east and west in said square to a width of 60 feet and the extension of the same by the latter width through said square from 21st to 22nd streets which said streets bounded said square on the east and west sides thereof respectively.

6. That such proceedings were therefore had, that said jury so impanelled, presided over by the marshal's deputy, and not under the supervision of any judicial tribunal, thereafter, to wit, on the 17th of March, 1898, made its award and finding, whereby they
3 undertook to condemn for the purposes of said street a part of said sub-lots 42 and 43, that is to say, 40 feet 3 inches, the width thereof, fronting upon said proposed street, by a depth of 15 feet, or one-fifth of the total area thereof, and the respondent,

pursuant thereto, has taken actual possession and control thereof for the purposes of said street.

7. That in said proceedings the jury undertook to allow as the value of the land so taken, $92. for said part of sub-lot 42 and $75. for said part of sub lot 43; that said amounts were never paid nor tendered to be paid but the respondent has sought to deduct the amounts thereof from the total amount of the tax apportioned against the portions of said sub-lots remaining.

8. That in said proceedings said jury apportioned an amount equal to the amount of damages awarded for the land condemned including the expenses of the proceeding, among the several lots in said square, of which amount they charged against the remainder of said lot 42 the sum of $650, less the sum of $92, the value of the portion taken, and against the remainder of said lot 43, the sum of $550 less the sum of $75, the value allowed for the portion thereof taken.

9. That no right *or* revision or review—said finding of said jury existed, and thereafter, the respondent attempted to levy as a tax or charge against said sublots, under the provisions of the acts of Congress heretofore mentioned, the amounts so fixed by said jury, that is to say, the sum of $650 less $92 against said sublot 42 and $550 less $75 against said sublot 43, which said sums are carried on the books of the respondent as taxes against said lots, and because of the nonpayment thereof, the respondent threatens a sale thereof.

10. Your petitioner avers that said charges or taxes and each of them are void and illegal, that said Commissioners were not authorized by said acts of Congress or either of them, or by any other law or part of law to open a minor street in said square, or to levy a tax or charge in the manner, in which "minor street" was opened and said taxes or charges were levied.

11. Your petitioner respectfully charges that the acts of Congress under which the proceedings aforesaid were had and pursuant to which the respondent undertook to levy the taxes aforesaid against the lots aforesaid, were and are unconstitutional and void, because they provide for the taking of private property for public uses without making just compensation and without due process of law, in this: 1. That they do not provide for the giving of notice of the proposed taking; 2. In that they provide for the apportionment of the total amount of the damages awarded for the land condemned together with the expenses of the proceeding, among the lots in the square through which the proposed street or alley is to be opened, without regard to the actual benefits; 3. In that they limit the area of assessment to such particular square, without regard to the benefit to adjacent squares, and without regard to the fact that the actual benefits to the square improved may not equal the total
4 cost of the improvement; 4. Because they arbitrarily require the assessment of such total cost to the particular square improved, without a legislative determination of the actual benefits or the area benefited, such determination being impossible because said laws are general in nature and were passed without a legis-

lative consideration of the particular improvement, the same not being in contemplation at the time, but arising subsequently.

12. Your petitioner further avers that the records in the custody of the respondent show numerous irregularities and illegalities in the supposed levy of said charges, among which are the following:

(*a.*) That said Commissioners did not nor, did any one else, open or authorize the opening of any minor street in said square, but that they widened and extended a thirty foot alley theretofore existing in said square, without any authority whatsoever so to do, but levied said taxes for the opening of a minor street.

(*b.*) That no plat of any minor street to be opened accompanied by a petition of the owners of more than one-half of the real estate in the square aforesaid was presented to the Commissioners. That the petition presented related to widening an alley and not to opening a minor street and was signed by thirty-six persons who did not own more than half of the real estate in said square and by a trustee who was not authorized by his beneficiaries to sign and who had no power to sign said petition. That the total number of square feet in said square was, to wit: 210,266.80, and the petition presented to the Commissioners of said District as aforesaid was not the petition of the owners of more than one-half of the real estate in said square.

(*c.*) That it does not appear that the Commissioners of the District of Columbia certified that the preservation of peace, good order and public morals, required that any such alley or minor street should be opened, extended, widened or straightened.

(*d.*) That it does not appear that the health officer of said District certified that such opening, widening or extending was necessary for the public health.

(*e.*) That the said Florence E. Edwards, guardian, was not consulted as to the propriety of said work, and in fact had no opportunity in advance to be heard as to the utility, necessity or nature of said work, or afterwards as to the apportionment of the cost thereof.

(*f.*) That no notice whatever was given to the said Florence E. Edwards, guardian, holder of the note aforesaid, secured upon said lots as aforesaid, of the proceedings for the condemnation of the land in said square, or of the assessment of the taxes aforesaid against said lots, whereby the area of the land covered by the deed of trust securing said note was reduced one-fifth by the portion thereof taken and now appropriated to public use, and there was interposed between the note aforesaid and the security thereof, a tax or assessment amounting to $1200.00.

(*g.*) That the value of the land taken or fixed by said jury was twenty-five cents per square foot, while the amount of assessment apportioned against the same was twice as much, to wit, 50 cents per square foot, and petitioner expressly charges that said assessment is more than 50% in excess of the actual benefits and in itself, was at the time of the levy thereof, and still is in excess of the value of the land in said lots, whereby the security for said note, without any notice whatever, has been wholly destroyed.

(*h.*) That there was not in fact any ascertainment by said jury of actual benefits; on the contrary, there was only an apportionment of the damages awarded in said proceedings and the costs thereof, among the lots in said square.

13. Petitioner further says that after the proceedings hereinbefore mentioned were had, there were certain further sums, aggregating a large amount, assessed against said lots of ground under the guise of street improvements, curbing and water main, all of which taxes were illegally assessed against said property as street improvements under laws conferring authority to levy taxes for the improvement of streets, whereas, your petitioner avers that legally there never was and is not such a street as Newport place, the proceedings under which an attempt was made to create the same being null and void for the reasons hereinbefore set forth.

14. Petitioner avers that by reason of the proceedings aforesaid, your petitioner has been injured and has no appeal.

Wherefore he prays:

I. That a United States writ of certiorari may issue from this court commanding the District of Columbia to certify immediately to this court a copy of each and every record and part of record in its custody relating in any manner to charges and taxes made against any part of sub-lot 42 and sub-lot 43, in square 69, city of Washington, District of Columbia, and purporting to be charges or taxes levied under the authority of acts of Congress approved July 22, 1892 and August 24, 1894 or either of them, together with a full and true copy of any petition by owners of property in said square, made to said Commissioners, and a full copy of every assessment charge or tax made or purporting to be made for either benefits or damages to any owner or owners of property in said square, together with a copy of all advertisements, measurements, computations, surveys, assessments, notices of assessments to proprietors and returns of manner service of any of such notice: and also, true copies of all records relating to any special improvements, taxes assessed against said lots since the opening of said Newport place.

II. That upon the coming in of said returns, the said alleged assessments or charges may be quashed and annulled by the judgment of this court.

THOMAS R. MARTIN.

BRANDENBURG & BRANDENBURG,
*Attorneys for Petitioner.*

6 DISTRICT OF COLUMBIA, *ss:*

I do solemnly swear that I have read the foregoing petition by me subscribed, and know the contents thereof, that the matters and things therein set forth of my own knowledge are true, and those set forth upon information and belief, I believe to be true.

THOMAS R. MARTIN.

Subscribed and sworn to before me this 25th day of April, A. D. 1904.

[SEAL.] LEE R. MARTIN,
*Notary Public, D. C.*

(Endorsed.)

JUNE 1, 1904.

Let the writ issue as prayed.

JOB BARNARD, *Justice.*

*Motion to Quash.*

Filed September 9, 1904.

In the Supreme Court of the District of Columbia.

At Law. No. 46982.

THOMAS R. MARTIN
*v.*
DISTRICT OF COLUMBIA.

Now comes the defendant, The District of Columbia, by its attorneys, and moves the court to quash the writ of certiorari issued in the above entitled cause, because:—

1. The petitioner, Thomas R. Martin, is not the owner of the property described in the said petition, holding neither the legal nor the equitable title, but is merely the holder of a promissory note secured by deed of trust thereon.

2. The owner of the said property, Clarence A. Brandenburg, has heretofore brought action, at law, No. 42961, to set aside the same assessments against the same property as that described in the petition in this case.

A. B. DUVALL,
F. H. STEPHENS,
*Attorneys for Defendant.*

7 *Judgment.*

Supreme Court of the District of Columbia.

FRIDAY, *May* 19, 1905.

Session resumed pursuant to adjournment, Mr. Justice Barnard presiding.

* * * * * * *

At Law. No. 46982.

THOMAS R. MARTIN, Petitioner,
*vs.*
THE DISTRICT OF COLUMBIA, Defendant.

Upon hearing the petition, writ of certiorari, and the motion to quash the writ, it is considered that said motion be, and hereby is granted: Therefore, it is considered that the writ of certiorari be, and it hereby is quashed and for nothing held, and that the petition be, and the same is hereby dismissed at the costs of the petitioner.

The petitioner notes an appeal to the Court of Appeals, and the bond for costs is fixed in the penalty of $100.00.

*Memorandum.*

May 29th, 1905.—Appeal bond filed.

Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia, ss:*

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 11, inclusive, to be a true and correct transcript of the record, as per rule 5 of the Court of Appeals of the District of Columbia, in cause No. 46,982, at law, wherein Thomas R. Martin is petitioner, and The District of Columbia is respondent, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 18th day of July, A. D. 1905.

[Seal Supreme Court of the District of Columbia.]

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1585. Thomas R. Martin, appellant, *vs.* The District of Columbia. Court of Appeals, District of Columbia. Filed Jul- 18, 1905. Henry W. Hodges, clerk.

8 THURSDAY, *October 5th, A. D.* 1905.

No. 1585.

THOMAS R. MARTIN, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

and

No. 1586.

CLARENCE A. BRANDENBURG, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

The argument in the above entitled causes was commenced by Mr. E. C. Brandenburg, attorney for the appellants, and was continued by Mr. F. H. Stephens, attorney for the appellee, and was concluded by Mr. E. C. Brandenburg, attorney for the appellants.

9 No. 1585.

THOMAS R. MARTIN, Appellant,
*v.*
DISTRICT OF COLUMBIA, Appellee.

*Opinion.*

Mr. Justice DUELL delivered the opinion of the Court:

In the case of Brandenburg *v.* District of Columbia, decided at this term of the court, we have determined adversely to the appellant all the questions raised by this appeal, save whether Thomas R. Martin, the appellant, was entitled to notice of the proceedings referred to in Brandenburg *v.* District of Columbia, *supra.* Reference is made to that case for the facts relative to the proceedings under which parts of the lots referred to in the record in this case were taken, damages awarded for such taking, benefits to the remaining parts of the lots apportioned against them, and the damages deducted from the benefits, and the balance made a charge upon the lands remaining.

The additional facts disclosed by this record, so far as necessary to be considered, show that prior to the proceedings above referred to, Brandenburg, being the owner in fee of the lots in question, conveyed the same to certain persons, as trustees, upon the usual terms, to secure the payment to one Florence E. Edwards, guardian, of a certain promissory note of said Brandenburg, and the renewals thereof, for the sum of one thousand dollars, with interest, and payable to her three years after date. Such deed of trust was duly recorded among the land records of the District of Columbia. At the time when the proceedings referred to were

taken, Florence E. Edwards was the owner and holder of the note. Later, but at what exact time does not appear, the appellant became the owner, for value, of the note, acquiring ownership from Edwards, the payee. The note was unpaid at the commencement of these proceedings in April, 1904. It will be seen by reference to the Brandenburg decision that the condemnation proceedings were had early in 1898.

The question to be determined herein, as stated by appellant, is whether he as the holder of the note, the payment of which is secured by trust deed, has such an interest in the property as permits him to question in this proceeding the validity of the special assessment for opening Newport Place, the name given to the street, as widened by the procedings.

To put it exactly, the question is whether Martin, who became the owner of the note after the proceedings complained of were had, can attack, in an independent suit, and in his own name, the special assessment, because notice of the same was not given to the owner of the note at the time of the taking of the proceedings, or to the trustees named in the trust deed. We are of the opinion that he can not sustain this proceeding, for the reason that at the time the proceeding was had he was neither the owner of the property in question nor had any interest, of any name or nature, therein. After the proceedings were had he became the owner of the note. The matter of the proceedings had become a public record. We do not think that, conceding that the payee and holder of the note had a right to notice, he, as the now owner of it, can attack the proceedings in an independent proceeding brought by him and in his own name. We, however, do not think that the original payee of the note was entitled to notice of the proceedings, for the act says that notice shall be given to the proprietors of the land. A holder of a note, the payment of which is secured by a deed of trust, is no more the proprietor of the land referred to in such a deed than is the holder of a bond, secured by a mortgage upon property, the owner of that property, or part owner of it, were it a case where one mortgage was given to secure more than one bond. In the latter case it would be practically impossible to take any steps under the act in question when the owner of the property had executed a trust deed or mortgage to secure an issue of notes or bonds. If, under the act, or if upon any legal ground, notice is required to be given to any one when a deed of trust or mortgage is outstanding, such notice would, in our opinion, only have to be given to the trustee or trustees named in the deed of trust or mortgage, not to the holders of notes or bonds to secure the payment of which the deed of trust or mortgage was given. As this is not a proceeding brought by or in the name of the trustees named in the deed of trust, it is unnecessary to decide whether notice should have been given to them. No reason is set forth in the petition why any rights of the appellant can not be protected and enforced by the trustees of the deed of trust.

To hold that holders of notes, payment of which is secured by trust deeds, are entitled to notice of proceedings of this character disclosed by the petition herein would establish an unwise precedent.

The court below did not err in quashing the writ, and its judgmen should be affirmed with costs. And it is so ordered.

Affirmed.

11 WEDNESDAY, *November 8th, A. D,* 1905.

No. 1585, October Term, 1905.

THOMAS R. MARTIN, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

Appeal from the Supreme Court of the District of Columbia.

This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia and was argued by counsel. On consideration whereof it is now here ordered and adjudged by this Court that the judgment of the said Supreme Court in this cause be and the same is hereby affirmed with costs.

Per MR. JUSTICE DUELL.

November 8, 1905.

12 In the Court of Appeals of the District of Columbia, October Term, 1905.

No. 1585.

THOMAS R. MARTIN, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

To the Honorable Judges of the Court of Appeals of the District of Columbia:

Comes now Thomas R. Martin, the above named appellant, by his attorneys, and complains that in the record and proceedings in said cause, and also in the judgment of the Supreme Court of the District of Columbia dismissing the petition of said appellant, and in the judgment of said Court of Appeals of the District of Columbia affirming the judgment of said Supreme Court of the District of Columbia, manifest error hath happened to the great damage of said appellant.

Wherefore, said appellant, prays for the allowance of a writ of error, for the reasons specified in the assignment of errors herewith filed, and for an order fixing the amount of bond for costs

in said cause, and for such other orders and process as may cause the same to be corrected by the Supreme Court of the United States.

Dated at Washington, D. C., November 16, 1905.

THOMAS R. MARTIN,
*Appellant and Petitioner,*
By BRANDENBURG & BRANDENBURG,
*His Attorneys.*

13 In the Court of Appeals of the District of Columbia, October Term, 1905.

No. 1585.

THOMAS R. MARTIN, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

*Assignment of Errors.*

Comes now the said Thomas R. Martin, appellant in the above entitled cause, by his attorneys, and files the following assignment of errors upon which he will rely in the prosecution of the writ of error in the above entitled cause:

1. That the Supreme Court of the District of Columbia erred in dismissing the petition of the petitioner, appellant herein, and rendering judgment against said petitioner.

2. That said Court erred in finding and holding that the petitioner had no such interest in the property in the petition described as entitled him to question the validity of the proceedings for the condemnation of the land and the assessment of benefits in his said petition mentioned.

3. That said Court erred in finding and holding that the Act of Congress, pursuant to which said proceedings were had, was Constitutional and valid.

4. That said Court erred in finding and holding that the proceedings in said petition mentioned were in accordance with law and valid.

5. That the Court of Appeals of the District of Columbia erred in affirming the judgment of the Supreme Court of the District of Columbia dismissing the petition of petitioner.

6. That said Court of Appeals erred in finding and holding that the petitioner had no right to question the validity of the proceedings in his said petition mentioned.

14

7. That said Court of Appeals erred in finding and holding that the Act of Congress, pursuant to which the proceedings in said petition mentioned were had, is Constitutional and valid.

8. That said Court of Appeals erred in finding and holding that the proceedings in said petition mentioned, for the condemnation of land and the assessment of benefits, were in accordance with law and valid.

Wherefore, the said Thomas R. Martin, appellant herein, prays that the judgment of the Court of Appeals of the District of Columbia, affirming the judgment of the Supreme Court of the District of Columbia, may be reversed and that the proceedings for the condemnation of the land and for the assessment of benefits in these proceedings mentioned, may be set aside and for naught held.

BRANDENBURG & BRANDENBURG,
*Attorneys for Appellant.*

(Endorsed:) No. 1585. In the Court of Appeals. Oct. Term 1905. Thomas R. Martin *vs.* The District of Columbia. Petition for writ of error and Assignment of Errors. Court of Appeals, District of Columbia, Filed Jan. 4, 1906. Henry W. Hodges, Clerk.

15 THURSDAY, *January 4th, A. D.* 1906.

No. 1585.

THOMAS R. MARTIN, Appellant,
*vs.*
THE DISTRICT OF COLUMBIA.

On motion of Mr. E. C. Brandenburg, of counsel for the appellant, It is ordered by the Court that a writ of error to remove this cause to the Supreme Court of the United States, issue, and the bond for costs is fixed at the sum of three hundred dollars.

16 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Honorable the Justices of the Court of Appeals of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Court of Appeals before you, or some of you, between Thomas R. Martin, appellant and The District of Columbia a manifest error hath happened, to the great damage of the said appellant as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 12th day of January, in the year of our Lord one thousand nine hundred and six.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
*Clerk of the Court of Appeals*
*of the District of Columbia.*

Allowed by

17 (*Bond on Writ of Error.*)

Know all Men by these Presents, That I, Thomas R. Martin, as principal, and Gertrude E. Brandenburg, as surety, are held and firmly bound unto The District of Columbia in the full and just sum of Three Hundred dollars to be paid to the said The District of Columbia certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 16th day of December, in the year of Our Lord one thousand nine hundred and five.

Whereas, lately at a Court of Appeals of the District of Columbia, in a suit depending in said Court, between the said Thomas R. Martin and the District of Columbia a judgment was rendered against the said Thomas R. Martin and the said Thomas R. Martin having obtained a writ of error and filed a copy thereof in the Clerk's Office of the said Court to reverse the judgment in the aforesaid suit, and a citation directed to the said The District of Columbia citing and admonishing it to be and appear at a Supreme Court of the United States, to be holden at Washington, within thirty days from the date thereof:

Now, the condition of the above obligation is such, That if the said Thomas R. Martin shall prosecute said writ of error to effect, and answer all costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

THOMAS R. MARTIN. [SEAL.]
GERTRUDE E. BRANDENBURG. [SEAL.]

Sealed and delivered in the presence of—
E. C. BRANDENBURG.

O K.
E. H. T.

Approved by—
SETH SHEPARD,
*Chief Justice Court of Appeals*
*of the District of Columbia.*

[Endorsed:] No. 1585 Thomas R. Martin Appellant *vs.* The District of Columbia. Bond on Writ of Error to Supreme Court U. S. Court of Appeals District of Columbia Filed Jan. 12-1906 Henry W. Hodges Clerk

18 UNITED STATES OF AMERICA, *ss:*

To the District of Columbia, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error, filed in the Clerk's Office of the Court of Appeals of the District of Columbia, wherein Thomas R. Martin is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Seth Shepard Chief Justice of the Court of Appeals of the District of Columbia, this 12th day of January, in the year of our Lord one thousand nine hundred and six.

SETH SHEPARD,
*Chief Justice of the Court of Appeals of the District of Columbia.*

Jan. 12, '06.—Service accepted.
F. H. STEPHENS,
*Asst. Corp. Counsel.*

[Endorsed:] Court of Appeals, District of Columbia, Filed Jan. 12 1906 Henry W. Hodges, Clerk.

19 Court of Appeals of the District of Columbia.

I, Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages numbered from 1 to 18 inclusive, contain a true copy of the transcript of record and proceedings of said Court of Appeals in the case of Thomas R. Martin *vs.* The District of Columbia No. 1585, January Term, 1906, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the City of Washington, this 15th day of January A. D. 1906.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
*Clerk of the Court of Appeals of the District of Columbia.*

Endorsed on cover: File No. 20,066. District of Columbia Court of Appeals. Term No. 190. Thomas R. Martin, plaintiff in error, *vs.* The District of Columbia. Filed January 26th, 1906. File No. 20,066.